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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/066,519	01/31/2002	Troy Walters	5490-000269	3690

7590

03/24/2004

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EXAMINER

RAMANA, ANURADHA

ART UNIT

PAPER NUMBER

3732

5

DATE MAILED: 03/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/066,519

Applicant(s)

WALTERS ET AL.

Examiner

Anu Ramana

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 37-46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-36 are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 January 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

Election/Restrictions

Applicants' election with traverse of claims 37-46 in Paper No. 4 is acknowledged. The traversal is on the grounds that "the subject matter defined within all the groups of claims are similar, consequently, the field of search for each group should be essentially coextensive." This argument is not found persuasive because Groups I, II and III are separately classified and accordingly have a separate status in the art (see MPEP 803.01).

The requirement is still deemed proper and is therefore made FINAL.

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference elements mentioned in the specification: 18a, 34a, 34b, 42a, 72a, 72b, 55, 80a and 80b. Applicants are requested to check the specification and ensure that all elements in the specification are shown in the drawings and all elements in the drawings are referenced in the specification. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

The abstract of the disclosure is objected to because of the use of the abbreviation "ACL" in line 1. Appropriate correction is required. See MPEP § 608.01(b).

Claim Objections

Claims 37-46 are objected to because of the following informalities.

In claim 37, the Examiner suggests changing lines 6-7, to clarify the step of alignment,

"aligning a tunnel forming device with said guide portion by passing said tunnel forming device through a guide section of a guide member"

Appropriate correction is required.

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In claims 37 and 40, it would seem that the first and second tunnels must be formed in the tibia and femur bones, respectively, before the transverse or third tunnel is made. Appropriate correction of the formation sequence of the tunnels is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Claims 37-46 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 37, lines 8-9, the phrase "forming a second tunnel transverse and through said first tunnel and said insertion rod with said tunnel forming device" renders the claim vague and indefinite since the position of the second tunnel with respect to the first tunnel and the insertion rod is not clearly recited.

In claim 45, line 4: "said passage" lacks antecedent basis.

Allowable Subject Matter

Claims 37-46 are directed to allowable subject matter if the claim objections and 112 rejections made in this Office Action are addressed and overcome.

The following is a statement of reasons for the indication of allowable subject matter: None of the prior art either alone or in combination discloses Applicants' invention of a method of surgically attaching a soft tissue replacement to a bone member including the steps of inserting an insertion rod having a guide portion into a first tunnel of the bone member wherein a flexible strand is pre-loaded on the guide portion of the insertion rod, aligning a tunnel forming device with the guide portion of the insertion rod by passing the tunnel forming device through a guide section of a guide member, forming a second tunnel having a longitudinal axis transverse to the longitudinal axis of the first tunnel by passing said tunnel forming device through the

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guide portion of the insertion rod, retaining the flexible strand within the first tunnel and removing the insertion rod from the first tunnel.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anu Ramana whose telephone number is (703) 306-4035. The examiner can normally be reached Monday through Friday between 8:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached at (703) 308-2582. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AR

March 17, 2004


KEVIN SHAVER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700